

JOSEPH P. RUSSONIELLO (CSBN 44332)  
 United States Attorney  
 JOANN M. SWANSON (CSBN 88143)  
 Chief, Civil Division  
 CLAIRE T. CORMIER (CSBN 154364)  
 Assistant United States Attorney  
 150 Almaden Blvd., Suite 900  
 San Jose, California 95113  
 Telephone: (408) 535-5082  
 FAX: (408) 535-5081  
 claire.cormier@usdoj.gov

Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

GUSTAVO T. VILLANUEVA,  
 Plaintiff,  
 v.  
 CONDOLEEZA RICE as Secretary of the  
 United States Department of State;  
 MAURA HARTY; CONSUELO  
 PACHON; and KEVIN LEWIS SPRIGGS,  
 Defendants.

No. 07-05721 JW

**STIPULATION OF SETTLEMENT  
 AND [PROPOSED] ORDER**

IT IS HEREBY STIPULATED by and between the parties that this action be settled and compromised on the following terms:

1. In full and final settlement of all claims in connection with the above-captioned action, the United States Department of State (hereinafter the "State Department") shall promptly issue a United States regular (tourist) passport to plaintiff Gustavo Tostado Villanueva (hereinafter "plaintiff"). For purposes of issuing this passport and future passports for which plaintiff may apply, the State Department accepts the evidence of birth in the United States provided by plaintiff, specifically plaintiff's California birth certificate and additional evidence and information provided in the course of this litigation. In order to facilitate the prompt issuance of a United States passport, plaintiff will appear at the office of an approved passport acceptance agent of his choice, such as a United States Post Office that accepts

1 passport applications. The State Department will make arrangements for a scheduled  
2 appointment for plaintiff at such passport acceptance agent's office. Plaintiff shall bring with  
3 him to the passport acceptance agent's office a new Form DS-11 passport application and  
4 current appropriate photographs. Plaintiff will sign the application in the presence of the  
5 passport acceptance agent. No additional documentation will be required of plaintiff, and no  
6 fees will be assessed for the processing of this new passport application. The State Department  
7 will make arrangements with the passport acceptance agent for prompt transmission of the  
8 passport application and photographs to the appropriate office of the State Department. Upon  
9 receipt of the application and photographs, the State Department will promptly issue plaintiff a  
10 regular passport. The State Department will deliver the passport to defendants' counsel, who  
11 will provide it to plaintiff.

12 2. As additional consideration for this agreement, the State Department will, at  
13 plaintiff's request, provide to plaintiff's federal employer or plaintiff's United States military  
14 command a letter advising that plaintiff's federal employer or military command may request  
15 an official passport for plaintiff in accordance with standard procedures for such passports.

16 3. The parties agree that the consideration described in Paragraphs 1 and 2, above, is in  
17 exchange for plaintiff releasing and dismissing all claims stated in his complaint in this action,  
18 including but not limited to claims for declaratory relief, attorneys' fees, costs, and any other  
19 form of legal or equitable recovery relating to plaintiff's applications for United States  
20 passports to date.

21 4. Plaintiff accepts the terms described in Paragraphs 1 and 2 in full settlement and  
22 satisfaction, and in full release and discharge, of any and all claims and demands which he, his  
23 successors or assignees may now have or hereafter acquire against defendants Condoleeza Rice,  
24 Maura Harty, Consuelo Pachon, Kevin Lewis Spriggs, the State Department, or any of their past  
25 and present officials, agents, employees, attorneys, or insurers, on account of the events  
26 described in plaintiff's pleadings or other court filings in this action, or as a result of any other  
27 action or conduct by defendants, the State Department, or their past and present officials,  
28 agents, employees, attorneys, or insurers that occurred prior to the execution of this Agreement.

1           5. In consideration of this Agreement, plaintiff agrees that, upon being advised that  
2 defendants' counsel is in possession of plaintiff's passport, he will deliver to defendants'  
3 counsel a fully executed Stipulation for Dismissal with Prejudice of the above-captioned action.  
4 Concurrent with the delivery of such stipulation, defendants' counsel will deliver the passport  
5 to plaintiff. Should plaintiff choose to provide the Stipulation for Dismissal with Prejudice to  
6 defendants' counsel prior to receipt of the passport, the parties agree that the stipulation shall  
7 not be filed with the Court until the State Department or its counsel has delivered the passport  
8 to plaintiff or his designated agent.

9           6. Plaintiff agrees that he has not filed and will not file any other charges, complaints,  
10 lawsuits, or other claims that relate to any action or conduct by the defendants, the State  
11 Department, or their past and present officials, agents, employees, attorneys, or insurers that  
12 occurred prior to the execution of this Agreement with respect to plaintiff's passport  
13 applications.

14           7. This is a compromise settlement of a disputed claim and demand, which settlement  
15 does not constitute an admission of liability or fault on the part of the defendants, the State  
16 Department, or any of their past and present officials, agents, employees, attorneys, or insurers  
17 on account of the events described in plaintiff's complaint or other court filings in this action.

18           8. The parties agree that, should any dispute arise with respect to the implementation of  
19 the terms of this Agreement, plaintiff shall not seek to rescind the Agreement and pursue his  
20 original causes of action. Plaintiff's sole remedy in such a dispute is an action to enforce the  
21 Agreement in District Court. The parties agree that the District Court will retain jurisdiction  
22 over this matter for the purposes of resolving any dispute alleging a breach of this Agreement.

23           9. Each party hereby stipulates that he or she is fully aware of and understands all of the  
24 terms of the Agreement and the legal consequences thereof. It is acknowledged that the parties  
25 hereto have mutually participated in the preparation of this Agreement, and it is agreed that no  
26 provision hereof shall be construed against any party hereto by virtue of the activities of that  
27 party or its attorney.

28 //

Apr-11-08 12:00pm From-

10. This instrument shall constitute the entire agreement between the parties, and it is expressly understood and agreed that the Agreement has been freely and voluntarily entered into by the parties hereto. The parties further acknowledge that no warranties or representations have been made on any subject other than as set forth in this Agreement. This Agreement may not be altered, modified or otherwise changed in any respect except by writing, duly executed by all of the parties or their authorized representatives.

11. The representative of the State Department signing this Agreement affirms that she is authorized to execute this Agreement on behalf of the State Department and the defendants. This document may be signed in counterparts.

**IT IS SO STIPULATED.**

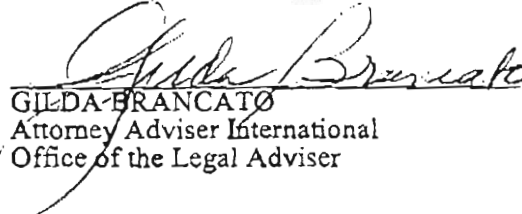
DATED: April \_\_, 2008

JOSEPH P. RUSSONIELLO  
United States Attorney

CLAIRE T. CORMIER  
Assistant United States Attorney

DATED: April 11, 2008

UNITED STATES  
DEPARTMENT OF STATE

By:   
GILDA BRANCATO  
Attorney Adviser International  
Office of the Legal Adviser

DATED: April \_\_, 2008

GUSTAVO T. VILLANUEVA  
Plaintiff In Pro Per

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_

JAMES WARE  
United States District Court Judge

10. This instrument shall constitute the entire agreement between the parties, and it is expressly understood and agreed that the Agreement has been freely and voluntarily entered into by the parties hereto. The parties further acknowledge that no warranties or representations have been made on any subject other than as set forth in this Agreement. This Agreement may not be altered, modified or otherwise changed in any respect except by writing, duly executed by all of the parties or their authorized representatives.

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**IT IS SO STIPULATED.**

DATED: April 11, 2008

JOSEPH P. RUSSONIELLO  
United States Attorney

  
CLAIRE T. CORMIER  
Assistant United States Attorney

DATED: April \_\_, 2008

UNITED STATES  
DEPARTMENT OF STATE

By: GILDA BRANCATO  
Attorney Adviser International  
Office of the Legal Adviser

DATED: April 11, 2008

  
GUSTAVO T. VILLANUEVA  
Plaintiff In Pro Per

~~PROPOSED~~ ORDER

**PURSUSANT TO THE STIPULATION, IT IS SO ORDERED AS FURTHER MODIFIED.**

The Court withdraws the Defendants' Motion to Dismiss currently scheduled on April 14, 2008.

The Court sets a further case management conference for May 19, 2008 at 10:00 AM.

The parties are to file a joint case managment statement or stipulated dismissal by May 9, 2008.

Dated: April 11, 2008

  
JAMES WARE  
United States District Court Judge